

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Glen J. SLADE Atty. Ref.: 34-134; Confirmation No. 9244
Appl. No. 10/588,657 TC/A.U. 2166
Filed: August 7, 2006 Examiner: Witzenburg, Bruce A.
For: DATA STORAGE

March 3, 2009

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

**STATEMENT OF THE SUBSTANCE OF THE JANUARY 30, 2009 INTERVIEW
UNDER 37 CFR 1.133 (B)**

In accordance with 37 CFR 1.133 (b) and with respect to the Examiner's Interview Summary mailed February 3, 2009, the following is Applicants' statement of the substance of the interview:

During a personal interview conducted at the USPTO on 1/30/2008 with Examiners Bruce A. Witzenburg and Steve LeRoux, inventor Glen Slade, accompanied by the undersigned, provided an example working model of his claimed data storage device and explained the operation of the device to the Examiners.

Examiner Witzenburg contended that the prior art algorithm of Orrin allegedly taught selecting a first and second location to begin writing data in the manner as set

forth by Applicant's claims and that including a file index along with the data stored by Orrin would be obvious to one of ordinary skill since the use of a file index is well known as suggested by the Wang et al. reference.

The undersigned disagreed with the Examiner's contentions and argued that Applicant's claims were not obviousness in view of the Orrin reference when considered with the Wang et al. reference at least because the Wang et al. approach to providing a "file index" is incompatible and would not work in Orrin's security system and, moreover, that using a file index in Orrin's security system make no sense because the data to be stored is broken down into bits (in the binary sense) that are spread across a large file at storage locations determined by an algorithm which precludes any need for a file index. It was pointed out by the undersigned that Orrin does not contemplate or suggest storing multiple items of data in a randomly accessible way as is facilitated by the subject matter claimed in Applicant's independent claims. It was also pointed out that there is no suggestion of using a file index in Orrin's system or that Orrin's system could be used to store a data set and an associated file index and, in any event, that such would not be obvious to one of ordinary skill in the art. In addition, it was pointed out that even if one could use Orrin's system to store a data set and an associated file index, it would not be obvious to do so nor would the resulting system function or be operable to function in the same manner as the exemplary non-limiting implementation described in Applicant's specification. Moreover, it was further pointed out that the techniques used in Orrin are inherently unsuitable for such usage.

During the interview, Examiner Witzenburg stated that if the independent claims in the application were amended in a manner to clarify the independence of the selection of the first location (i.e., the “first” location of claim 1) from the selection of the second location (i.e., the “second” location of claim 1), then the claims would not read on Orrin allegedly because Orrin’s second and subsequent locations are derived by a same single algorithm from the first location. Examiner Witzenburg commented that Applicant’s claim language could be amended to better reflect Applicant’s disclosed and intended implementation by claiming “unconstrained” locations of the file index and the data set (i.e., distinguishing between writing process algorithms used for selecting the claimed “first” and “second” locations) and/or claiming independent writing processes for determining locations for writing the file index and the data set, and that, if made to the independent claims, such amendments would overcome the Orrin reference in view of the Wang reference.

Examiner Witzenburg also commented that if the application claims were amended by Applicant in a Response or an RCE to provide the above distinction, although he believed that the claims would distinguish over the Orrin reference and the prior art references of record, he would still be required to conduct further prior art searching in light of such amendments and, therefore, could not acknowledge the patentability of any claims that included such amendments at the time of the interview.

During the interview, the undersigned and the Examiner also briefly discussed the grounds of the Examiner’s rejections under 35 U.S.C. § 101 with respect to claims

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104-114, 125 and 133, and under 35 U.S.C. § 112 first and fourth paragraphs with respect to claims 107, 126-132 and 134, as set forth in the Final Office Action.

The Examiner is invited to contact the undersigned if any further information is required to complete the record of the substance of the interview.

Respectfully submitted,

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